

REMARKS

This is a full and timely response to the outstanding final Office Action mailed June 12, 2003. Reconsideration and allowance of the application and presently pending claims 4-15, *as amended*, are respectfully requested.

1. Present Status of Patent Application

Upon entry of the amendments in this response, claims 4-15 remain pending in the present application. More specifically, claims 6, 10-12, and 15 are directly amended. These amendments are specifically described hereinafter. It is believed that the foregoing amendments add no new matter to the present application.

2. Request for Continued Examination

In accordance with 37 U.S.C. 1.114, a Request For Continued Examination is filed concurrently with this Response To The Final Office Action so that the Office Action mailed June 12, 2003 (Paper No. 8) is effectively made non-final.

3. Response to Rejection of Claims 4 and 6-15 Under 35 U.S.C. §102(e)

In the Office Action, claims 4 and 6-15 stand rejected under 35 U.S.C. §102(e) as allegedly anticipated by *Scroggie et al.* (U.S. Patent 6,014,634), hereinafter *Scroggie*. For a proper rejection of a claim under 35 U.S.C. Section 102, the cited reference must disclose all elements/features/steps of the claim. See, e.g., *E.I. du Pont de Nemours & Co. v. Phillips Petroleum Co.*, 849 F.2d 1430, 7 USPQ2d 1129 (Fed. Cir. 1988).

a. Claim 11

Applicant respectfully submits that independent claim 11 is allowable for at least the reason that *Scroggie* does not disclose, teach, or suggest at least the feature of a "user portable scanning device for advising a user in selecting a product or service" as recited in claim 11.

Scroggie is apparently limited to at most a system that "employs a point of sale checkout scanner 312" (Col. 12, Line 15). At most, the *Scroggie* checkout scanner 312 scans a token wherein "the background image is a complex pattern of relatively light intensity, so as not to

interfere with scanned bar codes on the coupon” (Col. 11, Lines 34-36) such that “purchased items and the token are all scanned by the point-of-sale checkout scanner 312” (Col. 15, Lines 49-50). Point-of-sale checkout scanners are not portable. *Scroggie* does not disclose, teach or suggest that the checkout scanner 312 is portable. Thus, *Scroggie* does not anticipate claim 11, and the rejection should be withdrawn for this reason alone.

Furthermore, the *Scroggie* point-of-sale checkout scanner 312 does not advise a user in any manner. The *Scroggie* point-of-sale checkout scanner 312 function is clearly stated by its name, a device for checking out customer purchases at the point of sale. *Scroggie* does not disclose, teach or suggest anywhere that the point-of-sale checkout scanner 312 has any other functionality, much less that it advises a user. Thus, *Scroggie* does not anticipate claim 11, and the rejection should be withdrawn for this reason alone.

b. Claim 12

Applicant respectfully submits that independent claim 12 is allowable for at least the reason that *Scroggie* does not disclose, teach, or suggest at least the feature of “a portable user scanning means operable by a user for identifying a service and for indicating to the user the suitability of the service based on one or more predetermined user preferences” as recited in claim 12.

For the reasons detailed above in the argument for allowability of claim 11, the *Scroggie* checkout scanner 312 is not portable. Thus, *Scroggie* does not anticipate claim 12, and the rejection should be withdrawn for this reason alone.

Furthermore, the *Scroggie* point-of-sale checkout scanner 312 does not advise a user in any manner. In particular, the *Scroggie* point-of-sale checkout scanner 312 does not advise a user of the suitability of the service based on one or more predetermined user preferences. The *Scroggie* point-of-sale checkout scanner 312 function is clearly stated by its name, a device for checking out customer purchases at the point of sale. The *Scroggie* point-of-sale checkout scanner 312 is not disclosed anywhere as having any other functionality. Thus, *Scroggie* does not anticipate claim 12, and the rejection should be withdrawn for this reason alone.

Finally, *Scroggie* does not disclose, teach, or suggest that the *Scroggie* point-of-sale checkout scanner 312 is “operable by a user” as recited in claim 12. Thus, *Scroggie* does not anticipate claim 12, and the rejection should be withdrawn for this reason alone.

c. Claim 15

Applicant respectfully submits that independent claim 15 is allowable for at least the reason that *Scroggie* does not disclose, teach, or suggest at least the feature of a “portable remote user means operable by a user for identifying a product or service” as recited in claim 15.

For the reasons detailed above in the argument for allowability of claim 11, the *Scroggie* checkout scanner 312 is not portable. Thus, *Scroggie* does not anticipate claim 15, and the rejection should be withdrawn for this reason alone.

Furthermore, the *Scroggie* point-of-sale checkout scanner 312 does not advise a user in any manner. In particular, the *Scroggie* point-of-sale checkout scanner 312 does not advise a user of the suitability of the service based on one or more predetermined user preferences. The *Scroggie* point-of-sale checkout scanner 312 function is clearly stated by its name, a device for checking out customer purchases at the point of sale. The *Scroggie* point-of-sale checkout scanner 312 is not disclosed anywhere as having any other functionality. Thus, *Scroggie* does not anticipate claim 15, and the rejection should be withdrawn for this reason alone.

Finally, *Scroggie* does not disclose, teach, or suggest that the *Scroggie* point-of-sale checkout scanner 312 is “operable by a user” as recited in claim 15. Thus, *Scroggie* does not anticipate claim 15, and the rejection should be withdrawn for this reason alone.

d. Claims 4 and 6-10

Because independent claim 15 is allowable over the cited art of record, dependent claims 4 and 6-10 (which depend from independent claim 15) are allowable as a matter of law for at least the reason that the dependent claims 4 and 6-10 contain all features/elements of independent claim 15. See, e.g., *In re Fine*, 837 F.2d 1071 (Fed. Cir. 1988). Accordingly, the rejection to claims 4 and 6-10 should be withdrawn.

Furthermore, for the reasons detailed above in the argument for allowability of claim 15, the *Scroggie* checkout scanner 312 does not advise a user when “product characteristics include one or more of: method of treatment or manufacture, distance product has travelled from origin, place of origin, politics of region of origin, type of labour used in manufacture or production, details of manufacturer or supplier, health risks, public health warnings associated with the product, special

offers” as recited in claim 9. Thus, *Scroggie* does not anticipate claim 9, and the rejection should be withdrawn for this reason alone.

e. Claims 13 and 14

Because independent claim 12 is allowable over the cited art of record, dependent claims 13 and 14 (which depend from independent claim 12) are allowable as a matter of law for at least the reason that the dependent claims 13 and 14 contain all features/elements of independent claim 12. Accordingly, the rejection to claims 13 and 14 should be withdrawn.

4. Response to Rejection of Claim 5 Under 35 U.S.C. §103(a)

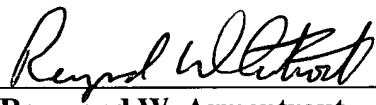
In the Office Action, claim 5 stands rejected under 35 U.S.C. §103(a). Because independent claim 15 is allowable over the cited art of record, dependent claim 5 (which depends from independent claim 15) is allowable as a matter of law for at least the reason that the dependent claim 5 contains all features/elements of independent claim 15. Accordingly, the rejection to claim 5 should be withdrawn.

CONCLUSION

In light of the foregoing amendments and for at least the reasons set forth above, Applicant respectfully submits that all objections and/or rejections have been traversed, rendered moot, and/or accommodated, and that the now pending claims 4-15 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**

By: 
Raymond W. Armentrout
(770) 738-2310
Reg. No. 45,866

**THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.**

Suite 1750

100 Galleria Parkway N.W.

Atlanta, Georgia 30339

(770) 933-9500